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## **FAIR HOUSING ASSISTANCE PROGRAM (FHAP)**

Through the Fair Housing Assistance Program (FHAP), HUD funds state and local agencies that administer fair housing laws that HUD has determined to be substantially equivalent to the Fair Housing Act. View a list of currently certified Substantially Equivalent Agencies.

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## Complaint Processing Under a Substantially Equivalent Law

### Program Purpose

The Fair Housing Act contemplates that, across the country, state and local governments will enact and enforce their own statutes and ordinances that are substantially equivalent to the Fair Housing Act. HUD provides FHAP funding annually on a noncompetitive basis to state and local agencies that administer fair housing laws that provide rights and remedies that are substantially equivalent to those provided by the Fair Housing Act.

### Substantial Equivalence Certification

A state or local agency may be certified as substantially equivalent after it applies for certification and HUD determines that the agency administers a law that provides substantive rights, procedures, remedies and judicial review provisions that are substantially equivalent to the Fair Housing Act. Typically, once certified, HUD will refer complaints of housing discrimination that it receives to the state or local agency for investigation.

There are two phases in determining whether an agency is substantially equivalent. In the first phase, the Assistant Secretary for Fair Housing and Equal Opportunity determines whether, "on its face," the state or local law provides rights, procedures, remedies and judicial review provisions that are substantially equivalent to the Fair Housing Act. If so, HUD offers the agency interim certification for up to three years. During the three years of interim certification, the agency builds its capacity to operate as a fully certified substantially equivalent agency.

In the second phase, the Assistant Secretary for Fair Housing and Equal Opportunity determines whether, "in operation," the state or local law provides rights, procedures, remedies and the availability of judicial review that are substantially equivalent to the Fair Housing Act.

To obtain certification, a state or local agency must have a law that, at a minimum, prohibits discrimination against the same protected classes as the Fair Housing Act (race, color, national origin, religion, sex, disability and familiar status). A substantially equivalent agency's law may include additional protected classes.

An affirmative conclusion that the state or local law is substantially equivalent both on its face and in operation will result in HUD offering the agency certification. Certification is for a term of five years.

During the five years of certification, the agency's ability to maintain certification will be assessed. After the five years of certification, if the Assistant Secretary determines that the agency still qualifies for certification, HUD will renew the agency's certification for another five years.

Substantial equivalence certification presents numerous advantages to state and local governments, parties to housing discrimination complaints, and the general public. These advantages include funding and local complaint processing under a substantially equivalent law.

### Responsibilities of FHAP Recipients

FHAP is an intergovernmental enforcement partnership between HUD and the state or local agencies. As in any partnership, both parties must contribute to the success of the program.

While HUD provides significant resources to Substantially Equivalent Agencies in the form of training, technical assistance and funding, the agencies must demonstrate a commitment to thorough and professional complaint processing. This includes all phases of complaint processing, from accurate identification of issues at intake, through complete and sound investigations, to following through on administrative or judicial enforcement to ensure that victims of unlawful housing discrimination obtain full remedies and the public interest is served. The agencies should also work to develop relationships with public, private, and non-profit organizations in a grass roots approach to making fair and open housing a reality.

Of equal importance, the political jurisdictions in which the agencies operate must understand their own commitment and must support the existence and the work of the Substantially Equivalent Agencies. Funding provided by HUD is not intended to cover 100 percent of the costs of the agencies' operations, so local resources must be provided by the jurisdiction to their respective agencies. Resources from the jurisdiction should include both funding and the legal resources necessary to pursue administrative and/or judicial enforcement.

State or local agencies interested in participating in the FHAP should also consult the specific requirements enumerated in 24 C.F.R. part 115.

## **Funding Availability**

Through FHAP, HUD reimburses both interim and certified substantially equivalent state and local agencies in their fair housing enforcement efforts, consistent with congressional appropriations.

## **Complaint Processing Under a Substantially Equivalent Law**

Generally, when HUD receives a complaint and the complaint alleges violations of a state or local fair housing law administered by an interim certified or certified agency, it will refer the complaint to the state or local agency for investigation, conciliation and enforcement activities. Having fair housing professionals based in the locality (or the same state, district, possession or territory) where the alleged discrimination occurred benefits all parties to a housing discrimination complaint. These individuals often have a greater familiarity with local housing stock and trends. In addition, the agencies' closer proximity to the site of the alleged discrimination may lead to greater efficiency in case processing.

While certification results in a shift in fair housing enforcement power from the federal government to the state or locality, the substantive and procedural strength of the Fair Housing Act is not compromised. The FHAP is a partnership between the federal government and state and local agencies to provide protection to the public against discrimination in housing.

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